

**LETTER OPINION**  
**96-L-30**

March 1, 1996

Mr. Charlie Whitman  
Bismarck City Attorney  
PO Box 5503  
Bismarck, ND 58506-5503

Dear Mr. Whitman:

Thank you for your February 6, 1996, letter asking whether a city advertising for construction bids on a special assessment project under N.D.C.C. ch. 40-22 must advertise in a trade publication pursuant to N.D.C.C. § 48-01.1-03.

Any municipality may defray the expenses of certain types of public improvements by special assessment. N.D.C.C. § 40-22-01. Proposals for bids must be advertised as follows:

Proposals for the work of making improvements provided for in this chapter must be advertised for by the governing body in the official newspaper of the municipality once each week for two consecutive weeks. All other provisions for proposals under this chapter are governed by chapters 48-01.1 and 48-02.

N.D.C.C. § 40-22-19. N.D.C.C. ch. 48-01.1 concerns public improvement contract bids and N.D.C.C. ch. 48-02 concerns construction of public improvements. N.D.C.C. § 48-01.1-03 requires that advertising for bids relating to public improvements of over fifty thousand dollars must start at least 21 days before the bids are to be opened and must be advertised for three consecutive weeks in the official newspaper and also in a trade publication in general circulation among the contractors, building manufacturers, and dealers in North Dakota. 1995 N.D. Sess. Laws. ch. 443, § 16.

The meaning of a statute must be sought initially from the statutory language. County of Stutsman v. State Historical Society, 371 N.W.2d 321, 325 (N.D. 1985). Words in a statute are to be given their plain, ordinary, and commonly understood meanings unless specifically defined in the Century Code. Kim-Go v. J.P. Furlong Enterprises, Inc., 460 N.W.2d 694, 696 (N.D. 1990); N.D.C.C. § 1-02-02.

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The plain meaning of N.D.C.C. § 40-22-19 is to require that advertisements seeking proposals to perform the work for improvements by special assessment under N.D.C.C. ch. 40-22 must be placed in the official newspaper once each week for two consecutive weeks. All other provisions, that is to say, all provisions other than those concerning placement and frequency of advertisements, are governed by chapters 48-01.1 and 48-02. N.D.C.C. § 48-01.1-03 requires additional advertising beyond publication in the official newspaper of the municipality once each week for two consecutive weeks. Those additional requirements, including advertisement in a trade publication, do not apply to improvements paid for by special assessment under chapter 40-22. To the extent that N.D.C.C. chs. 48-01.1 and 48-02 contain advertising requirements other than placement of the advertisement and its timing or frequency, those provisions will govern improvements made by special assessment under chapter 40-22.

Further support for this interpretation is found in the fact that N.D.C.C. § 40-22-19 was amended simultaneously with the enactment of N.D.C.C. § 48-01.1-03. 1995 N.D. Sess. Laws ch. 443, §§ 6, 16. N.D.C.C. ch. 40-22 specifically addresses public improvements which may be paid for by special assessments. The Legislature amended N.D.C.C. § 40-22-19 by removing several requirements, but retained the requirement for advertising in the official newspaper once a week for two consecutive weeks and added the new language that all other provisions are governed by chapters 48-01.1 and 48-02. 1995 N.D. Sess. Laws ch. 443, § 6. The advertising provisions of amended N.D.C.C. § 40-22-19 can be interpreted consistently with the advertising provision of new N.D.C.C. § 48-01.1-03 by viewing N.D.C.C. § 40-22-19 as a specific exemption for special assessment projects apart from the general provisions regarding public improvement contract bidding on other types of projects contained in N.D.C.C. § 48-01.1-03. See N.D.C.C. § 1-02-07.

In conclusion, it is my opinion that a city advertising for construction bids on a special assessment project under N.D.C.C. ch. 40-22 does not need to advertise the project in a trade publication pursuant to N.D.C.C. § 48-01.1-03.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

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